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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/734,433 | 12/12/2003 | Maurizio Della Cuna | 1011-599 | 4601 |
| 47888 | 7590 | 03/15/2007 | EXAMINER | |
| HEDMAN & COSTIGAN P.C. 1185 AVENUE OF THE AMERICAS NEW YORK, NY 10036 | | | HARDEE, JOHN R | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1751 | |
| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | | DELIVERY MODE | |
| 3 MONTHS | 03/15/2007 | | PAPER | |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/734,433 | CUNA ET AL. | |
| | Examiner | Art Unit | |
| | John R. Hardee | 1751 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 50-65 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 50-65 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 2, 2007 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 64 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "dialkylmethylammonium metasulfate; either quaternized tertiary amines," is garbled. Tertiary amines, if that is what is intended, are not cationic. "Metasulfate" appears incorrect. Applicant is reminded to refrain from adding new matter when correcting this.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 50-58 and 61-65 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by WO 99/59955. The reference is in French. Reference is made to English language equivalent US 6,458,987. See Examples 6, 8 and 10.
6. Claims 50-53, 55-58 and 62-65 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Trani et al., US 5,702,636. See the example at col. 7.

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
8. Claims 50-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trani et al., US 5,702,635. See the 102 rejection above. Not all of the limitations of all of the claims are disclosed with sufficient specificity to constitute anticipation. However, it would have been obvious at the time that the invention was made to incorporate esters as recited in claim 54, because the esters need not be acylated (col. 3, lines 62-67). It would have been obvious to use an ester which liberates undecanol, because the R groups of the esters may be of 1-18 carbons (col. 4, line 11). Use of EDTA is disclosed at col. 3, line 53. Regarding addition of ethoxylated alcohols, addition of surfactants is disclosed at col. 5, line 40, and ethoxylated coconut fatty alcohols are well known surfactants for use in laundry detergents.

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9. Claims 50-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vermeer, US 5,880,076. The reference discloses detergent and personal care compositions comprising glycacarbamate and glycaurea compounds (abstract). Lactic acid esters are disclosed as useful emulsifiers at col. 30, lines 34-35. No specific amount is disclosed, but determination of the emollience-effective amount of a disclosed emollient is well within the abilities of the person of ordinary skill in the surfactant art. The examiner takes the position that the disclosed R groups would make obvious the use of an 11-carbon alcohol portion of the lactate ester. A number of zinc salts are disclosed at the top of col. 38. Regarding claim 51, sequestrants are disclosed at col. 21, line 54, and aluminosilicates (zeolites) at col. 42, lines 60+. Addition of vitamin E (tocopherol) is disclosed at col. 31, line 67. Addition of 8-18 carbon alcohols is disclosed at col. 30, lines 10+. Addition of EDTA is disclosed at col. 33, line 5. Suitable surfactants are disclosed at col. 22, line 45-col. 27, line 63. This reference differs from the claimed subject matter in that it does not disclose a composition which reads on applicant's claims with sufficient specificity to constitute anticipation.

It would have been obvious at the time the invention was made to make such a composition, because this reference teaches that all of the ingredients recited by applicants are suitable for inclusion in a surfactant composition. The person of ordinary skill in the surfactant art would expect the recited compositions to have properties similar to those compositions which are exemplified, absent a showing to the contrary.

In the case where the claimed ranges overlap or lie inside ranges disclosed by the prior art, a *prima facie* case of obviousness exists. *In re Wertheim*, 541 F.2d 257,

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191 USPQ 90 (CCPA 1976); *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed Cir. 1990).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, Dr. John R. Hardee, whose telephone number is (571) 272-1318. The examiner can normally be reached on Monday through Friday from 8:00 until 4:30. In the event that the examiner is not available, his supervisor, Mr. Douglas McGinty, may be reached at (571) 272-1029.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John R. Hardee
Primary Examiner
March 13, 2007